

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 09 January 2006

Case No.: 2005-RIS-00011

In the Matter of:

**U.S. DEPARTMENT OF LABOR,
EMPLOYEE BENEFITS
SECURITY ADMINISTRATION,**
Complainant,

v.

CONFIDENT CARE CORP.,
Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CASE**

This matter arises under the provisions of the Employee Retirement Income Security Act of 1974 (hereinafter "ERISA"), 29 U.S.C. §§ 1132, 1135 and the Secretary's Order 1-87, 53 Fed. Reg. 13,139 (1987) as implemented by regulations found at 29 C.F.R. Parts 2560 and 2570. The Complainant, the Employee Benefits Security Administration, U.S. Department of Labor (hereinafter "EBSA"), filed an administrative complaint against the Respondent pursuant to section 502(c)(2) of ERISA, 29 U.S.C. § 1132(c)(2), alleging violations of sections 101(b)(1) and 104(a)(1) of ERISA, 29 U.S.C. §§ 1021(b)(1) and 1024(a)(1), for failure to file an annual report for the Respondent's 401(k) Plan for 2002 that contained an acceptable report of an independent qualified public accountant. On December 19, 2005, the parties submitted a joint Settlement Agreement and Stipulation With Order, requesting that the undersigned dismiss the complaint due to the parties' agreement to compromise their differences and settle all outstanding disputes. The parties' settlement agreement, attached hereto, is incorporated herein by reference.

Title 29, Part 2570.65 of the Code of Federal Regulations governs settlements of complaints filed under Section 502(c)(2) of ERISA and states:

(d) Disposition. In the event a settlement agreement containing consent findings and an order is submitted within the time allowed

therefore, the administrative law judge shall issue a decision incorporating such findings and agreement within thirty (30) days of his receipt of such document. The decision of the administrative law judge shall incorporate all of the findings, terms, and conditions of the settlement agreement and consent order of the parties. Such decision shall become final agency action within the meaning of 5 U.S.C. 704.

29 C.F.R. § 2570.65(d). Pursuant to Section 2570.65(b), the parties' settlement agreement must provide: (1) that the agreement shall have the same force and effect as an order made after full hearing, (2) that the entire record on which any order may be based shall consist solely of the notice and the agreement, (3) a waiver of any further procedural steps before the administrative law judge, (4) a waiver of any right to challenge or contest the validity of the order and decision entered into in accordance with the agreement, and (5) that the order and decision of the administrative law judge shall be final agency action. 20 C.F.R. §§ 2570.65(b)(1)-(5).

After review of the parties' joint stipulations, I find that the terms, form, and substance of the settlement agreement satisfy 20 C.F.R. § 2570.65(b) and are fair to resolve all disputed matters in this case. Accordingly, the parties' joint stipulations as incorporated herein are **APPROVED**, and the parties are directed to carry out the requirements of the settlement agreement. Furthermore, as this action obviates the need to proceed further in this matter, it is **ORDERED** that this case is **DISMISSED** with prejudice upon the parties' fulfillment of the conditions in the settlement agreement.

SO ORDERED.

A

JOHN M. VITTON
Chief Administrative Law Judge